FILED

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CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA, Plaintiff - Appellee, **v.** **RIGOBERTO ARELLANO-PERALTA,** Defendant - Appellant.	No. 05-50614 D.C. No. CR-04-01442-R **MEMORANDUM** *

Appeal from the United States District Court
for the Central District of California
Manuel L. Real, District Judge, Presiding

Submitted August 18, 2006**
Pasadena, California

Before: **KOZINSKI**, **O'SCANNLAIN** and **BYBEE**, Circuit Judges.

1. Under United States v. Dominguez-Benitez, 542 U.S. 74, 83 (2004), "a defendant who seeks reversal of his conviction after a guilty plea, on the ground

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* This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Circuit Rule 36-3.

** This panel unanimously finds this case suitable for decision without oral argument. See Fed. R. App. P. 34(a)(2).

that the district court committed plain error under Rule 11 of the Federal Rules of Criminal Procedure, must show a reasonable probability that, but for the error, he would not have entered the plea." Defendant here has made no effort to show how the Rule 11 errors he alleges caused him to accept a plea agreement he otherwise would have rejected.

2. To show that defendant was prejudiced by the district court's failure to confirm that he and his attorney read and discussed the presentence report, he must show that, but for this omission, he would have uncovered factual inaccuracies he could have challenged at sentencing. See United States v. Sustaita, 1 F.3d 950, 954 (9th Cir. 1993). But defendant's only challenge to the findings in the PSR is a claim that his prior convictions were the result of police corruption, and "collateral attacks on prior state convictions are not permitted in federal sentencing proceedings unless the defendant asserts a total denial of his right to counsel in the previous proceeding." United States v. Saya, 247 F.3d 929, 940 (9th Cir. 2001).

3. For the same reason, we find that the district judge committed no error under Federal Rule of Criminal Procedure 32(i)(3)(B). The only factual issue defendant asserts that the district judge failed to resolve was the validity of his past convictions, which cannot be collaterally attacked in a sentencing proceeding.

4. The district judge gave adequate consideration to "the history and characteristics of the defendant," as required by 18 U.S.C. section 3553(a)(1). The judge stated that he considered "the circumstances of the offense and the history of the circumstances of the defendant." We find nothing in the record to contradict that assertion, and our caselaw does not require a sentencing judge to fully explain his consideration of each section 3553(a) factor on the record. See United States v. Huerta-Pimental, 445 F.3d 1220, 1224 (9th Cir. 2006).

5. Finally, under Almendarez-Torres v. United States, 523 U.S. 224, 247 (1998), and the "prior conviction" exception to Apprendi v. New Jersey, 530 U.S. 466, 489–90 (2000), defendant had no right to have the fact of his prior convictions found by a jury. Both cases remain good law. See United States v. Rodriquez-Lara, 421 F.3d 932, 949–50 (9th Cir. 2005).

AFFIRMED.